

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 747
93RD GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, February 2, 2006, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

Senate Committee Substitute adopted March 1, 2006.

Taken up March 1, 2006. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

3082S.03P

AN ACT

To repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to used car dealer courses.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 301.560, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 301.560, to read as follows:

301.560. 1. In addition to the application forms prescribed by the
2 department, each applicant shall submit the following to the department:

3 (1) Every application other than a renewal application for a motor vehicle
4 franchise dealer shall include a certification that the applicant has a bona fide
5 established place of business. When the application is being made for licensure
6 as a manufacturer, motor vehicle dealer, wholesale motor vehicle dealer,
7 wholesale motor vehicle auction or a public motor vehicle auction, certification
8 shall be performed by a uniformed member of the Missouri state highway patrol
9 stationed in the troop area in which the applicant's place of business is located;
10 except, that in counties of the first classification, certification may be performed
11 by an officer of a metropolitan police department when the applicant's established
12 place of business of distributing or selling motor vehicles or trailers is in the
13 metropolitan area where the certifying metropolitan police officer is
14 employed. When the application is being made for licensure as a boat
15 manufacturer or boat dealer, certification shall be performed by a uniformed
16 member of the Missouri state water patrol stationed in the district area in which
17 the applicant's place of business is located or by a uniformed member of the
18 Missouri state highway patrol stationed in the troop area in which the applicant's

19 place of business is located or, if the applicant's place of business is located
20 within the jurisdiction of a metropolitan police department in a first class county,
21 by an officer of such metropolitan police department. A bona fide established
22 place of business for any new motor vehicle franchise dealer or used motor vehicle
23 dealer shall include a permanent enclosed building or structure, either owned in
24 fee or leased and actually occupied as a place of business by the applicant for the
25 selling, bartering, trading or exchanging of motor vehicles or trailers and wherein
26 the public may contact the owner or operator at any reasonable time, and wherein
27 shall be kept and maintained the books, records, files and other matters required
28 and necessary to conduct the business. The applicant's place of business shall
29 contain a working telephone which shall be maintained during the entire
30 registration year. In order to qualify as a bona fide established place of business
31 for all applicants licensed pursuant to this section there shall be an exterior sign
32 displayed carrying the name of the business set forth in letters at least six inches
33 in height and clearly visible to the public and there shall be an area or lot which
34 shall not be a public street on which one or more vehicles may be displayed,
35 except when licensure is for a wholesale motor vehicle dealer, a lot and sign shall
36 not be required. The sign shall contain the name of the dealership by which it
37 is known to the public through advertising or otherwise, which need not be
38 identical to the name appearing on the dealership's license so long as such name
39 is registered as a fictitious name with the secretary of state, has been approved
40 by its line-make manufacturer in writing in the case of a new motor vehicle
41 franchise dealer and a copy of such fictitious name registration has been provided
42 to the department. When licensure is for a boat dealer, a lot shall not be
43 required. In the case of new motor vehicle franchise dealers, the bona fide
44 established place of business shall include adequate facilities, tools and personnel
45 necessary to properly service and repair motor vehicles and trailers under their
46 franchisor's warranty;

47 (2) If the application is for licensure as a manufacturer, boat
48 manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer,
49 wholesale motor vehicle auction, boat dealer or a public motor vehicle auction, a
50 photograph, not to exceed eight inches by ten inches, showing the business
51 building and sign shall accompany the initial application. In the case of a
52 manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer,
53 the photograph shall include the lot of the business. A new motor vehicle
54 franchise dealer applicant who has purchased a currently licensed new motor

55 vehicle franchised dealership shall be allowed to submit a photograph of the
56 existing dealership building, lot and sign but shall be required to submit a new
57 photograph upon the installation of the new dealership sign as required by
58 sections 301.550 to 301.573. Applicants shall not be required to submit a
59 photograph annually unless the business has moved from its previously licensed
60 location, or unless the name of the business or address has changed, or unless the
61 class of business has changed;

62 (3) If the application is for licensure as a wholesale motor vehicle dealer
63 or as a boat dealer, the application shall contain the business address, not a post
64 office box, and telephone number of the place where the books, records, files and
65 other matters required and necessary to conduct the business are located and
66 where the same may be inspected during normal daytime business
67 hours. Wholesale motor vehicle dealers and boat dealers shall file reports as
68 required of new franchised motor vehicle dealers and used motor vehicle dealers;

69 (4) Every applicant as a new motor vehicle franchise dealer, a used motor
70 vehicle dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with
71 the application a corporate surety bond or an irrevocable letter of credit as
72 defined in section 400.5-103, RSMo, issued by any state or federal financial
73 institution in the penal sum of twenty-five thousand dollars on a form approved
74 by the department. The bond or irrevocable letter of credit shall be conditioned
75 upon the dealer complying with the provisions of the statutes applicable to new
76 motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor
77 vehicle dealers and boat dealers, and the bond shall be an indemnity for any loss
78 sustained by reason of the acts of the person bonded when such acts constitute
79 grounds for the suspension or revocation of the dealer's license. The bond shall
80 be executed in the name of the state of Missouri for the benefit of all aggrieved
81 parties or the irrevocable letter of credit shall name the state of Missouri as the
82 beneficiary; except, that the aggregate liability of the surety or financial
83 institution to the aggrieved parties shall, in no event, exceed the amount of the
84 bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter
85 of credit shall be paid upon receipt by the department of a final judgment from
86 a Missouri court of competent jurisdiction against the principal and in favor of
87 an aggrieved party;

88 (5) Payment of all necessary license fees as established by the
89 department. In establishing the amount of the annual license fees, the
90 department shall, as near as possible, produce sufficient total income to offset

91 operational expenses of the department relating to the administration of sections
92 301.550 to 301.573. All fees payable pursuant to the provisions of sections
93 301.550 to 301.573, other than those fees collected for the issuance of dealer
94 plates or certificates of number collected pursuant to subsection 6 of this section,
95 shall be collected by the department for deposit in the state treasury to the credit
96 of the "Motor Vehicle Commission Fund", which is hereby created. The motor
97 vehicle commission fund shall be administered by the Missouri department of
98 revenue. The provisions of section 33.080, RSMo, to the contrary
99 notwithstanding, money in such fund shall not be transferred and placed to the
100 credit of the general revenue fund until the amount in the motor vehicle
101 commission fund at the end of the biennium exceeds two times the amount of the
102 appropriation from such fund for the preceding fiscal year or, if the department
103 requires permit renewal less frequently than yearly, then three times the
104 appropriation from such fund for the preceding fiscal year. The amount, if any,
105 in the fund which shall lapse is that amount in the fund which exceeds the
106 multiple of the appropriation from such fund for the preceding fiscal year.

107 2. In the event a new manufacturer, boat manufacturer, motor vehicle
108 dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle
109 auction or a public motor vehicle auction submits an application for a license for
110 a new business and the applicant has complied with all the provisions of this
111 section, the department shall make a decision to grant or deny the license to the
112 applicant within eight working hours after receipt of the dealer's application,
113 notwithstanding any rule of the department.

114 3. Upon the initial issuance of a license by the department, the
115 department shall assign a distinctive dealer license number or certificate of
116 number to the applicant and the department shall issue one number plate or
117 certificate bearing the distinctive dealer license number or certificate of number
118 within eight working hours after presentment of the application. Upon the
119 renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer,
120 public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor
121 vehicle auction, the department shall issue the distinctive dealer license number
122 or certificate of number as quickly as possible. The issuance of such distinctive
123 dealer license number or certificate of number shall be in lieu of registering each
124 motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat
125 manufacturer, manufacturer, public motor vehicle auction, wholesale motor
126 vehicle dealer, wholesale motor vehicle auction or motor vehicle dealer.

127 4. Notwithstanding any other provision of the law to the contrary, the
128 department shall assign the following distinctive dealer license numbers to:

- 129 New motor vehicle franchise dealers D-0 through D-999
- 130 New motor vehicle franchise and commercial
131 motor vehicle D-1000 through D-1999
- 132 Used motor vehicle dealers D-2000 through D-5399
133 and D-6000 through D-9999
- 134 Wholesale motor vehicle dealers W-1000 through W-1999
- 135 Wholesale motor vehicle auctions W-2000 through W-2999
- 136 Trailer dealers T-0 through T-9999
- 137 Motor vehicle and trailer manufacturers M-0 through M-9999
- 138 Motorcycle dealers D-5400 through D-5999
- 139 Public motor vehicle auctions A-1000 through A-1999
- 140 Boat dealers and boat manufacturers B-0 through B-9999

141 5. Upon the sale of a currently licensed new motor vehicle franchise
142 dealership the department shall, upon request, authorize the new approved dealer
143 applicant to retain the selling dealer's license number and shall cause the new
144 dealer's records to indicate such transfer.

145 6. In the case of manufacturers and motor vehicle dealers, the department
146 shall also issue one number plate bearing the distinctive dealer license number
147 to the applicant upon payment by the manufacturer or dealer of a fifty dollar
148 fee. Such license plates shall be made with fully reflective material with a
149 common color scheme and design, shall be clearly visible at night, and shall be
150 aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat
151 manufacturers shall be entitled to one certificate of number bearing such number
152 upon the payment of a fifty dollar fee. As many additional number plates as may
153 be desired by manufacturers and motor vehicle dealers and as many additional
154 certificates of number as may be desired by boat dealers and boat manufacturers
155 may be obtained upon payment of a fee of ten dollars and fifty cents for each
156 additional plate or certificate. A motor vehicle dealer, boat dealer, manufacturer,
157 boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer
158 or wholesale motor vehicle auction obtaining a dealer license plate or certificate
159 of number or additional license plate or additional certificate of number,
160 throughout the calendar year, shall be required to pay a fee for such license
161 plates or certificates of number computed on the basis of one-twelfth of the full
162 fee prescribed for the original and duplicate number plates or certificates of

163 number for such dealers' licenses, multiplied by the number of months remaining
164 in the licensing period for which the dealer or manufacturers shall be required
165 to be licensed. In the event of a renewing dealer, the fee due at the time of
166 renewal shall not be prorated.

167 7. The plates issued pursuant to subsection 3 or 6 of this section may be
168 displayed on any motor vehicle owned and held for resale by the motor vehicle
169 dealer or manufacturer, and used by a customer who is test driving the motor
170 vehicle, or is used by an employee or officer, but shall not be displayed on any
171 motor vehicle or trailer hired or loaned to others or upon any regularly used
172 service or wrecker vehicle. Motor vehicle dealers may display their dealer plates
173 on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

174 8. The certificates of number issued pursuant to subsection 3 or 6 of this
175 section may be displayed on any vessel or vessel trailer owned and held for resale
176 by a boat manufacturer or a boat dealer, and used by a customer who is test
177 driving the vessel or vessel trailer, or is used by an employee or officer, but shall
178 not be displayed on any vessel or vessel trailer hired or loaned to others or upon
179 any regularly used service vessel or vessel trailer. Boat dealers and
180 manufacturers may display their certificate of number on a vessel or vessel trailer
181 which is being transported to an exhibit or show.

182 **9. (1) Beginning August 28, 2006, every application for the**
183 **issuance of a used motor vehicle dealer's license shall be accompanied**
184 **by proof that the applicant, within the last twelve months, has**
185 **completed an educational seminar course approved by the department**
186 **as prescribed by subdivision (2) of this subsection. Wholesale and**
187 **retail auto auctions shall be exempt from the requirements of this**
188 **subsection. The provisions of this subsection shall not apply to new**
189 **motor vehicle franchise dealers or a motor vehicle leasing agency. The**
190 **provisions of this subsection shall not apply to used motor vehicle**
191 **dealers who were licensed prior to August 28, 2006.**

192 **(2) The educational seminar shall include, but is not limited to,**
193 **the dealer requirements of sections 301.550 to 301.573, the rules**
194 **promulgated to implement, enforce, and administer sections 301.550 to**
195 **301.570, and any other rules and regulations promulgated by the**
196 **department.**

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